

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Complaint of Ramon Lopez

Docket No. C2011-5

ORDER SUPPLEMENTING RECORD

(Issued March 30, 2012)

On July 12, 2011, Ramon Lopez of Coleman, Florida (Complainant) filed a complaint with the Commission alleging that the Postal Service had discontinued mail delivery to his residence in Homestead, Florida.¹ Complainant claims that the Postal Service has unlawfully suspended mail delivery to his residence, causing him to incur unnecessary expenses of approximately \$2,500. *Id.* at 1. He seeks restoration of his mail service and compensatory damages of no less than \$2,500. *Id.* at 2.

Upon receipt of the Complaint, the Commission referred the matter to the Postal Service for investigation pursuant to the service inquiry procedures set forth in 39 CFR 3031.11. *Id.* The Postal Service response indicated that delivery to Complainant's residence in Homestead was suspended because the letter carrier servicing the route

¹ Complaint of Ramon Lopez, July 12, 2011 (Complaint).

found the residence vacant.² The Fuller Letter, appended to this Order as Attachment 1, was not incorporated into the record at that time since it had been sent to Mr. Lopez independently by the Postal Service.

Because the Postal Service's response appeared to resolve the service inquiry, the Commission dismissed the Complaint as provided in 39 CFR 3031.11(c).³ On September 8, 2011, the Commission received additional correspondence from Complainant styled as a "Reply to the United States Postal Service's Response."⁴ The Lopez Reply, which is appended to this Order as Attachment 2, did not include any docket designation. The Commission acknowledged the Lopez Reply with a letter dated September 9, 2011, notifying him that his Complaint had been dismissed. Because the Complaint had already been dismissed, the Lopez Reply was not incorporated into the record in the instant proceeding. Complainant subsequently filed a petition for review of Order No. 796, in the United States Court of Appeals for the District of Columbia Circuit.⁵

On January 12, 2012, the Commission requested a voluntary remand of Mr. Lopez's case.⁶ It explained that additional efforts by the Commission to address this matter may aid in the resolution of the dispute, stating that "further filings by the parties may help to identify any factual inaccuracies and dispel any remaining misunderstandings concerning the Postal Service's policies and regulations governing

² Letter to Ramon Lopez from Debra C. Fuller, USPS Consumer & Industry Affairs, July 25, 2011 (Fuller Letter).

³ Order Dismissing Complaint, August 10, 2011 (Order No. 796).

⁴ Reply to the United States Postal Service's Response, September 8, 2011 (Lopez Reply). This document was posted on the Commission's website on September 8, 2011.

⁵ Petition for Review of Case, *Lopez v. Postal Regulatory Comm'n* (D.C. Cir. 2011) (No. 11-1346) (Petition for Review).

⁶ Respondent's Motion for Voluntary Remand of the Case, *Lopez v. Postal Regulatory Comm'n* (D.C. Cir. 2011) (No. 11-1346), January 12, 2012.

the delivery, suspension, and reinstatement of mail to unoccupied residences.” *Id.* at 3-4. The Court remanded the proceedings to the Commission on February 6, 2012.⁷

On February 21, 2012, the Commission issued an order establishing procedures, which, among other things, “accepts Mr. Lopez’s Reply for filing....”⁸ In addition, the Commission indicated that it would consider the Lopez Reply on its merits. *Id.*

Both the Fuller Letter and the Lopez Reply are integral to the record in this proceeding. Accordingly, both are hereby incorporated into and made part of the record in this docket.

It is ordered:

1. The Letter to Ramon Lopez from Debra C. Fuller, USPS Consumer & Industry Affairs, dated July 25, 2011, is incorporated into the record in this proceeding.
2. Ramon Lopez’s Reply to the United States Postal Service’s Response, received by the Commission on September 8, 2011, is incorporated into the record in this proceeding.

By the Commission.

Ruth Ann Abrams
Acting Secretary

⁷ Order on Motion for Voluntary Remand of the Case, *Lopez v. Postal Regulatory Comm’n* (D.C. Cir. 2011) (No. 11-1346), February 6, 2012.

⁸ Order No. 1242, Order Establishing Procedures, February 21, 2012, at 2.

Attachment 1

Letter to Ramon Lopez from Debra C. Fuller, USPS Consumer & Industry Affairs,
Dated July 25, 2011

Consumer & Industry Affairs



July 25, 2011

Ramon Lopez
FCC – USP 1
P.O. Box 1033-42004004
Coleman, FL 33521-1033

Dear Mr. Lopez,

This is in response to your inquiry with the Postal Regulatory Commission who shared your information with the Postal Service's Consumer Advocate. I am responding for the Consumer Advocate.

Your initial inquiry to the Consumer Advocate by letter, dated July 21, 2010, concerned mail disruption to the address of 29800 SW 183 Ct, Homestead, Florida 33030. Due to your inquiry being of a service nature, it was forwarded to the Consumer Affairs Office over the service area for Homestead, Florida. At such time, your inquiry was investigated by local management and it was found that the home was vacant. Therefore, a change of address to that effect was completed by the letter carrier who services the route and mail was held for 10 days at the local Post Office. After the conclusion of the ten day period, it was returned to the senders.

Responses to your more recent inquiries to the General Counsel were sent by letter to you signed by Juan Nadal, Consumer and Industry Manager, for the South Florida District on June 30, 2011.

To further address this matter with you, Regulation Handbook, M-41, City Delivery Carriers Duties and Responsibilities, section 241.15, provides as follows:

When a customer moves and does not leave a forwarding order, the carrier must hold the customer's mail for up to 10 days, pending receipt of a change of address. (*Exception:* Any mail containing specific instructions from the sender printed on the envelope must be handled in accordance with those instructions.) If a change of address is not received after 10 days, the carrier must complete a Form 3575-Z to indicate that the customer has moved and left no

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-2200
1-800-ASK-USPS
www.USPS.COM

forwarding address. The held mail is bundled with the Form 3575-Z and placed in the COA's mail entry slot.

As addressed in the Handbook M-41 section 241.15 above, mail addressed to you was delivered for 10 consecutive days upon which time no mail was retrieved from the mailbox. The Letter Carrier held your mail as required and submitted the appropriate documentation (3575-Z) indicating your mail was not claimed.

Our policy on reinstatement of deliveries is that mail is re-established after a determination has been made that the residence has been reoccupied. In general, the absent a request by an addressee, letter carriers who travel by the residence will reinstate delivery upon learning that a residence is occupied.

In this matter, we have received no information indicating that the residence in question is occupied. Also, please note the address you provided 28900 SW 183 CT, Homestead, FL 33030, is not a valid address in the USPS Address Management System. The correct address for this location is 2100 NW 9th AVE Homestead, FL 33030. All mail addressed to the incorrect address will accordingly be returned to sender as "No Such Address" (NSA).

For any future Postal Service issues, please feel free to contact the Office of Consumer & Industry Contact at 2200 NW 72 Ave #225, Miami FL 33152. The phone number for that office is (954) 436-4405.

Thank you for writing and providing us the opportunity to clarify this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra C. Fuller". The signature is fluid and cursive, with the first name "Debra" and last name "Fuller" clearly distinguishable.

Debra C. Fuller
Consumer & Industry Affairs

Attachment 2

Ramon Lopez's Reply to the United States Postal Service's Response

		UNITED STATES POSTAL REGULATORY COMMISSION WASHINGTON, DC 20258-0001	C2011-5 RECEIVED 2011 SEP -8 12 40 PM POSTAL REGULATORY COMMISSION OFFICE OF THE CHIEF OF STAFF
RAMON LOPEZ,	:		
Complainant,	:	Postal Regulatory Commission Office of the Chief Admin. Officer	
vs.	:	SEP 1 2011	
UNITED STATES POSTAL SERVICE,	:		
Respondent.	:		

REPLY TO THE UNITED STATES POSTAL SERVICE'S RESPONSE

Ramon Lopez, pro se, complainant, hereby replies to the United States Postal Service's Response to his complaint for declaratory and injunctive relief and any other appropriate relief, caused by the above named agency's refusal to deliver mail to the complainant's homestead. In support thereof, he states:

1. U.S. Postal Service's (USPS) answering papers alleges that: (1) Complainant's initial inquiry dated, July 2010, triggered an investigation that found his homestead vacant, an a change of address by the letter carrier who service the route; (2) because of the afore, complainant's mail was held for 10 days and returned to the senders after conclusion of such period of time; and (3) the address provided by the complainant is not a valid address in the USPS Address Management System. See, attached as Exhibit A a copy of such answer.

2. For the reasons set forth below, Complainant states that this answer is irreponsive to his complaint, is factually inaccurate and shows a clear disregard for the laws and policies governing mail service and federal agencies' obligations.

3. Irresposive Answer: In his Complaint, Complainant claimed that for reasons unknown to him USPS ceased the delivery of mail to his homestead, located

at 29800 SW 183 Ct., Homestead, Florida starting around April, 2010, (Compl. at ¶1).¹ Rather than providing a direct response to that claim USPS enters in some technicalities from some Regulation Handbook relating to the procedures to follow when "a customer moves and does not leave a forwarding address," and/or relating to an [unrequested] change of address completed by the letter carrier who services the route where complainant homestead is located, etc., (USPS Answer at 1). However, it did not state its reason for: (1) interrupting/holding mail specifically address to the complainant without having in its possession a change of address request by the complainant; and (2) still refusing mail delivery services to this present date, after various request to restore such services by the complainant, members of his family, and/or the house caretaker.²

4. Factually Inaccurate Answer: In its answer USPS alleged that the change of address was completed after an investigation by local management (upon complainant's inquiry dated July 21, 2010) found that the home was vacant, and mail being held for 10 days, and returned to senders thereafter, (id). However, a response provided by USPS on complainant's Freedom of Information Act (FOIA) Request, stated that mail address to complainant was delivered until April 28, 2010, at which time a Move Left No Address order was generated by assigned Letter Carrier "as mail was not received for more than thirty days." See, attached as Exhibit B, a copy of such a response.

The USPS, further alleged that: (1) the Letter Carrier held the mail as required and submitted the appropriate documentation (35752) indicating complainant's mail was not claimed; (2) there is no indication the residence is

¹ This is the correct date, as the 2009 year stated in the complaint appears to be a clerical typing error. (Complaint at ¶1).

² Affidavits supporting this statement are in the process to be prepared and could be submitted upon request, if the Commission deems necessary.

occupied; and (3) the address provided (29800 Sw 123 Ct., Homestead, FL 33030) is not a valid address, (USPS's Answer at 1-2). However, USPS has not provided any supporting evidence relating to such allegations in its response to the complaint, as required pursuant to 39 C.F.R. §3030.14(5).³ Furthermore, it is completely in error by alleging that the afore address is not a valid address as such is issued in all government official documents relating to property information, etc. See, e.g., attached as Exhibit C, a print out of Miami Dade County Office, showing the complainant's homestead address as the one provided herein.

5. Clear Disregard for the Laws and Policies: A cursory examination of this proceeding background will show that USPS has showed a clear disregard for any law, regulation, and policy governing the process of mail delivery, this process, and its obligations as a federal agency, including but not limited to its: (1) delays in responding complainant's initial "informa?" requests for inquiry as well as to this complaint, as required under 39 C.F.R. §3030.12(a); (2) failure to respond to the complaint in the proper manner and in accordance with 39 C.F.R. §3030.14(1-6); and (3) clear abuse of the use of FOIA Exemptions to justify the denial (in its totality) complainant's FOIA request.

Conclusion


Since, the USPS has not properly responded to the claim raised herein, has ignored the material issues of facts and law involving the denial of mail services to the complainant's homestead and the contents required in an answer, has not showed its intention to resolve this matter informally, but a clear abuse of the

³ Nor, in its FOIA response to complainant's FOIA-request either, which was denied in its totality (including evidence related to the change of address completed by the local letter carrier and the "Move Left No Address" error, generated by same carrier, relating to the complainant) by USPS allegedly because such information was exempted. See, id., Exh. D.

FCIA Exemptions to deny discovery herein. Complainant's respectfully requests the Commission to find that this complaint is justified and to issue an order accordingly and directing the USFS to: (1) restore the mail delivery service, (specifically addressed to the complainant) to the complainant's home as soon as possible; and (2) provide reasonable monetary compensation for the unnecessary expenses, complainant incurred due to such a denial.

Respectfully submitted,

on this 25th day of August, 2011.

3y: 
Ramon Lopez, Complainant
PO Box 1033-42004004
Coleman, FL 33521-1033

CERTIFICATE OF SERVICE

Complainant, Ramon Lopez, hereby certifies that a copy of the foregoing reply to the US Postal Service's Response has been served on this 25th day of August, 2011, via U.S. Mail, first class, postage prepaid on the U.S. Postal Service at the General Counsel's Office, US Postal Service, 475 L'Enfant Plaza, SW R-6004, Washington, D.C. 20260-1100.


RAMON LOPEZ

EXHIBIT A

Consumer & Industry Affairs



July 25, 2011

Ramon Lopez
HCC - USP 1
P.O. Box 1033-42004004
Coleman, FL 33521-1033

Dear Mr. Lopez,

This is in response to your inquiry with the Postal Regulatory Commission who shared your information with the Postal Service's Consumer Advocate. I am responding for the Consumer Advocate.

Your initial inquiry to the Consumer Advocate by letter, dated July 21, 2010, concerned mail disruption to the address of 29800 SW 183 Ct, Homestead, Florida 33030. Due to your inquiry being of a service nature, it was forwarded to the Consumer Affairs Office over the service area for Homestead, Florida. At such time, your inquiry was investigated by local management and it was found that the home was vacant. Therefore, a change of address to that effect was completed by the letter carrier who services the route and mail was held for 10 days at the local Post Office. After the conclusion of the ten day period, it was returned to the senders.

Responses to your more recent inquiries to the General Counsel were sent by letter to you signed by Juan Nadal, Consumer and Industry Manager, for the South Florida District on June 30, 2011.

To further address this matter with you, Regulation Handbook, M-41, City Delivery Carriers Duties and Responsibilities, section 241.15, provides as follows:

When a customer moves and does not leave a forwarding order, the carrier must hold the customer's mail for up to 10 days, pending receipt of a change of address. (Exception: Any mail containing specific instructions from the sender printed on the envelope must be handled in accordance with those instructions.) If a change of address is not received after 10 days, the carrier must complete a Form 3575-Z to indicate that the customer has moved and left no forwarding address. The held mail is bundled with the Form 3575-Z and placed in the CCA's mail entry slot.

As addressed in the Handbook M-41 section 241.15 above, mail addressed to you was delivered for 10 consecutive days upon which time no mail was retrieved from the mailbox. The Letter Carrier held your mail as required and submitted the appropriate documentation (3575-Z) indicating your mail was not claimed.

Our policy on reinstatement of deliveries is that mail is re-established after a determination has been made that the residence has been reoccupied. In general, the absent a request by an addressee, letter carriers who travel by the residence will reinstate delivery upon learning that a residence is occupied.

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1-800-ASK-USPS
www.usps.com

- 2 -

In this matter, we have received no information indicating that the residence in question is occupied. Also, please note the address you provided 28900 SW 183 CT, Homestead, FL 33030, is not a valid address in the USPS Address Management System. The correct address for this location is 2100 NW 9th AVE Homestead, FL 33030. All mail addressed to the incorrect address will accordingly be returned to sender as "No Such Address" (NSA).

For any future Postal Service issues, please feel free to contact the Office of Consumer & Industry Contact at 2200 NW 72 Ave #225, Miami FL 33152. The phone number for that office is (854) 438-4405.

Thank you for writing and providing us the opportunity to clarify this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra C. Fuller". The signature is fluid and cursive, with the first name "Debra" being more prominent than the last name "Fuller".

Debra C. Fuller
Consumer & Industry Affairs

EXHIBIT B

CONSUMER AFFAIRS
SECOND FLOOR SA DISTRICT



June 30, 2011

Ramon Lopez
FOC - USP 1
P.O. Box 1033-42904004
Cohen, FL 33521-1033

RE: Freedom of Information Act Request - 2011 - FPRO - 00475

Dear Ramon Lopez:

This responds to your Freedom of Information Act (FOIA) request dated February 21, 2011 in which you seek access to Postal Service records concerning the refusal to deliver mail to address 25800 SW 183rd Court, Homestead, FL 33030. After reviewing your request and conducting an investigation to why your mail is not being delivered we determined that on March 27 2010 a Change of Address (COA) order was submitted for multiple individuals that resided at 29900 SW 183rd Court, Homestead, FL 33030. Mail addressed to this address under Ramon Lopez was delivered until April 28, 2010 at which time a Moved Left No Address order was generated by assigned Letter Carrier as mail was not received for more than thirty days.

For the reasons that follow we are unable to provide the names and information related to the individuals who submitted COA request for the above referenced address.

FOIA Exemption 6 permits agencies to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Any records, which contain information concerning particular individuals, may qualify for the exemption's protection. Therefore, records that relate to Change of Address records about certain individuals are "files" within the meaning of the exemption.

In determining whether to release records that may be protected by Exemption 6, the agency must balance the privacy interests of the individuals involved against the public interest. If any, that would be served by disclosure. We do not consider that there is a public interest in the disclosure of the requested information sufficient to outweigh the privacy interests of the individuals involved. For the purposes of FOIA Exemption 6, the only public interest to be weighed is the extent to which disclosure would serve the "core purpose" of the FOIA, which is to contribute significantly to public understanding of the operations or activities of the government, or, in other words, to shed light on the conduct of government agencies.

You have the right to appeal this response by writing to the General Counsel, U.S. Postal Service, Washington, DC 20260, within 30 days of the date of this letter. The letter of appeal should include statements concerning this response, the reasons why it is believed to be erroneous, and the relief sought, along with copies of your original request, this letter, and any other related correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Juan Nadal".

Juan Nadal

National Consumer and Industry Contact Manager

15200 PHILBROCK
PHILBROCK, FL 33062-6000
TELEPHONE: (864) 450-4468
FAX: (864) 450-3015

EXHIBIT C

